



Comptroller General
of the United States

Washington, D.C. 20548

Decision

Matter of: Midwest Moving & Packing, Inc.--Request for
Reconsideration

File: B-256603.2

Date: May 3, 1995

DIGEST

The General Accounting Office will not question an agency's calculation of the value of damages to items in the shipment of a member's household goods unless the carrier presents clear and convincing evidence that the calculation is unreasonable.

DECISION

This is in response to a request for reconsideration of our decision B-256603, Aug. 1, 1994, in which we denied the claim of Midwest Moving & Packing, Inc., for reimbursement of amounts collected by setoff for loss of a television and a suitcase from a shipment of household goods. We affirm our decision, but remand the claim to the Navy for reassessment of damages.

The household goods of Navy Lieutenant Jack L. Sprague were picked up at El Cajon, California, on October 25, 1991, under Government Bill of Lading No. UP 091,914 and delivered to Alexandria, Virginia, on November 21, 1991. At delivery the member's wife noted that a television and a suitcase were not the same television and suitcase which had been tendered to the carrier and refused to accept the items, and they were returned to the carrier. This was annotated on the form 1840. The Navy accepted the member's statement that the television tendered was a 14-inch Montgomery Ward color television with remote control instead of the 19-inch Montgomery Ward black and white television without remote control which was delivered, and that the suitcase tendered was a leather suitcase containing clothing and other items, while the one delivered was a plastic suitcase with nothing inside. The inventory lists the items only as "Montgomery Ward television" and "suitcase." The Navy collected \$638.98 from Midwest by setoff. Midwest argues that it is not liable and also objects to the amount of damages assessed.

To establish a prima facie case of carrier liability for loss of household goods, a shipper must show tender to the carrier, failure to deliver, and the amount of damages. See Missouri Pacific Railroad Co., Inc. v. Elmore & Stahl, 377 U.S. 134 (1964). When prima facie liability has been established, the burden of proof shifts to the carrier to rebut its liability. In the present situation, a prima facie case of carrier liability has been established in our view, and the carrier has presented no evidence to rebut its liability.

Regarding the amount of damages assessed, this Office generally will not question an agency's calculation of the value of damages to household goods in the absence of evidence that the agency acted unreasonably. See A & A Transfer & Storage, Inc., B-252974, Oct. 22, 1993. However, the carrier has submitted evidence regarding the Navy's calculation of damages which calls that calculation into question.

The Navy's calculation sheet shows the replacement cost of the television was based on the price of a 19-inch Sharp color television from a sale advertisement containing televisions of various sizes and brands. If the price of a 13- or 14-inch Montgomery Ward television is unobtainable, the price in the advertisement of the 13-inch Sharp television would appear to be the reasonable one on which to base the Navy's calculation.

In the case of the suitcase there appears to be no substantiation for the value of the suitcase or its contents. The record contains no information regarding the brand and style of the suitcase, and the information about the suitcase on the submitted catalog page is incomplete. Regarding the contents of the suitcase, the record is very vague. There is no indication of the number of articles of clothing in the suitcase, and no apparent substantiation for the replacement price of \$450 which was the basis for the Navy's calculation of damages for the clothing.

Accordingly, the claim is remanded to the Navy for recalculation of the value of damages for loss of the television and suitcase.

/s/ Seymour Efros
for Robert P. Murphy
General Counsel